

Michigan Psychiatric Society

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Parity deserves a vote

The treatment of mental disorders and substance use disorders has come a long way. In spite of managed care and maybe partly because of managed care. Managed care cut its teeth on mental illness.

There was a time when people with disturbing behavior spent quite a bit of time in hospitals. We've had a true revolution in our understanding and treatment of these disorders since then. And managed care tracked the data and we learned what works from the data, especially HMO data. Research and new medications began to flourish, and so did people whose disorders were no longer so debilitating. I think it was actually during the "Decade of the Brain" that the employer based benefit began erode, when someone really put the squeeze on. In the 80's mental health costs represented about 10% of total health care spending. By 1988, it was 6% and then, in 1997, it was 3%, about where it is today. We allot 3% of our health insurance resources for the brain.

Some insurers made it hard to get needed treatment pre-approved and then they set arbitrary limits on the amount they would pay in a calendar year and in a lifetime. High copays on the order of 50% were put in place to discourage use of the benefit, creating the illusion of savings. It was a double whammy. Authorization for treatment had to be justified and even begged for, then whether or not treatment was successfully completed, the annual limit may have been met in July and you were on your own until plan renewal time in January. A lot of people lost their jobs toward the end of the plan year. Maybe their spouses had had enough and walked out with the kids. Once you became destitute, you could apply to the public system. CMHs have taken a lot of time and spent a lot of tax dollars helping people put their shattered lives back together. Those taxes add up to a lot more than a 1% premium increase.

Sometimes, the family would shell out for the now 100% out-of-pocket expenses. So, you do keep your job. Your productivity is uneven sometimes, but you're hanging in there. You're working hard and you're paying in to your health plan, **but your health plan is paying out for everybody but you.** This is unjust. It's discriminatory and stigmatizing. You feel isolated and even ashamed and you don't speak up to your employer or HR department or to your union.

You know, over the 16 years that we have been advocating for parity, we have had a lot of people come and go. With some regularity, a legislative champion would emerge. I recall Speaker **Chuck Perricone**. I was in his office with our just introduced bills and he stood up, pounded the table, and said, I have a brother with schizophrenia and I know what you're talking about...and we are going to do this thing. We didn't. He was term limited. Representative **Paul DeWeese**, out of the blue, told his father's story...he had bipolar disorder and committed suicide and Rep. DeWeese had never talked about it publicly before. Former Senator **Virg Bernaro** has a brother with schizophrenia. Representative **Fran Amos** grew up with a floridly mentally ill mother.

We've had passionate champions. Then Representative **Lynn Rivers** was the first to introduce parity bills in Michigan. Senator **Liz Brater** picked up the mantle when she was in the House and helped shape the bills into their current form. What can I say about **Bev Hammerstrom**? She listened. She got answers to all the questions. She brought the insurers in. She boldly challenged opponents to show any evidence they had. She got it. Then she was term limited.

(over)

We have also had amazing advocates. We still do. I remember Vickie Mills. She retired to Florida. Her son Kevin had bipolar disorder, he struggled through adolescence until he was finally diagnosed, treated, finished school and got a good job. But bipolar disorder is cyclical and his insurance soon ran out. Vickie found his suicide note.

"Dear Mom & Dad, I know I told you that I would be OK but I will never be all right as long as I live with the disease called depression. I cannot go on being a burden to you both emotionally .. and financially, it only adds to my burden..... I love you both."

Vickie used to sit up here and bravely tell legislators that parity *can't* cost too much--the lack of parity *cost* her a son.

I recall my friend Kate, who struggled for years to pay off the cost of a \$70,000 psychiatric hospitalization, which she did. She is an attorney and an engineer. She was working independently and entrepreneurially in Michigan on brown field reclamation, but her small company tried, and could not buy an insurance product that offered mental health parity. So she took a job with the state of New Mexico. Another taxpayer exiting our state. Before she left, she did a crazy thing. She actually ran against Vern Ehlers so she could challenge him on parity. Congressman Ehlers not only voted for parity, he was a cosponsor on the bill.

The Economic Alliance will tell you that parity is a mandate and it will drive up the cost of insurance and cause employers to drop insurance coverage. This is not true and the studies and the hard evidence are readily available. The unions will say that they should be able to bargain for benefits. I think maybe the bargaining hasn't gone all that well. I think big three employees have enjoyed the Cadillac of health insurance and maybe now that, such as it is, they have the protection of the federal parity law--they may not have much to add to this conversation. The Chamber of Commerce may say that small businesses can't bear another burden, but mental illnesses don't discriminate and the small business people we polled thought that Michigan should have a parity law by a huge majority.

So, I've been doing this for 16 years. Our coalition has gone through a lot together, but we made the decision early on that we would trust the health plans and the insurance companies to do the right thing. To trust that the research and the science that we know points to cost effective treatments. We did not opt to name disorders or new treatments or providers. We are just saying, give us equality and cost effective treatments will prove themselves. Managed care is here to stay...let it manage mental illnesses based on medical necessity, not on arbitrary limits. These limits are the diabolical opposite of insurance. An enlightened purchaser cannot do it on their own. Create the pool so that small groups and businesses can enjoy the same benefits as large employers. We need to encourage business diversification and make room for creativity.

It's so interesting that the US Senate took the very same approach we have in taken in our bills here in Michigan. And that business and insurers came to the table and said..."we can do this." Look at the list of federal parity supporters. Look at the vote...**14 out of Michigan's 17 member Congressional Delegation supported parity.**

Here in Michigan and now more than ever, we should do everything we can to keep our workers working and our businesses competitive. Make it so we can deliver the right care at the right time and in the right amount.

And make mental health parity a cornerstone to the coming health care reform. That is fundamental.
There is no health without mental health.

So, we are just asking for a vote today. Put parity up for a vote. We know we have the votes in the House. We have good amendments ready to be considered. Send it over to the Senate. Give us the chance to do our work in that Chamber. Let the Senate vote it up or down.



The Wellstone-Domenici
Mental Health Parity and Addiction Equality Act of 2008
(MHAEA)

- The Act became law on October 3, 2008 and will become effective for most health plans renewing after October 3, 2009.
- MHAEA builds on and extends the Mental Health Parity Act of 1996 (lifetime/annual non-par dollar limit prohibitions retained).
- The Act does not require that a mental health or substance use benefit be provided--when these benefits are offered as part of a health plan they must be offered according to the MHAEA parity requirements.
- Unlike the 1996 law, the new law also applies parity to health plans' out-of-network benefits.

Parity Requirements

For all group health plans, including governmental plans, coverage for mental health or substance use disorders can have no greater:

financial requirements (i.e., deductibles, copays, out-of-pocket expenses, annual or lifetime dollar limits)

-- or --

treatment limitations (i.e., frequency of treatment, number of visits, days of coverage or other similar limits on scope or duration)

...than the **predominant requirements** applied to **substantially all** medical/surgical benefits.

And, plans cannot apply separate cost-sharing or treatment limits to MH/SA benefits.

Exemptions from the parity law:

- ***Small Employers:*** The new law only applies to health plans that cover more than fifty employees (51+).
- ***Cost Exemption:*** An exemption can be obtained by plans if they can show that providing mental health benefits equal to medical/surgical benefits increases their costs by more than 2% the first year of the law, and 1% for any year following. The cost exemption is only granted for one year on the basis of the previous year's expenses. Following the year the exemption was granted for, the plan would have to resume providing equal benefits if they wanted to continue to provide a mental health benefit.
- ***Self-Insured State and Local Government Employee Plans:*** may opt out of the Parity Act requirements.

Benefit management and Medical Necessity

- Plans are permitted to manage benefits based on their terms and conditions and "nothing in the Act may be construed as affecting the terms and conditions of the plan or coverage related to the benefits under the plan or coverage."

- Plans are required to make their medical necessity requirements for mental health and substance use treatment available upon request. Reasons for any payment denials must also be made available.

Preemption of less stringent state laws

- If state laws require more complete coverage for mental health and substance use disorders than the MHAEA does, then the state laws will not be preempted by the federal law. In states that have weaker parity laws (or none at all), the federal law will prevail.
- Michigan law has a minimum mental health benefit mandate for HMOs (20 visits) and all health insurers must provide intermediate and outpatient care for substance abuse to a limit of \$3,919 (adjusted 4/1/09).

Federal Guidance & Regulations

- The secretaries of Labor, Health and Human Services (HHS), and the Treasury share joint responsibility for providing guidance about the requirements of the Act to consumers and providers, as well as to state agencies and insurance commissioners. They also share joint responsibility for enforcing compliance with the Act and issuing regulations that determine how the act is to be administered.
- Federal rules are due by October 3, 2009. It has become clear that plans must make decisions in the absence of guidance.
- Starting in 2012 and every two years thereafter, the Labor Secretary must submit a report to Congress on group health plans' compliance with the Parity Act.

GAO Audit

The Government Accountability Office (GAO) is required to conduct an audit that will provide an analysis of the impact of the Parity Act on patterns and trends in coverage and any exclusions of specific mental health and substance use disorders. A report is to be presented to Congress in 2013 with the results of this audit, and another is required five years later.

Penalties

Potential penalties for noncompliance include \$100/day excise tax, ERISA fiduciary and criminal penalties, as well as individual lawsuit for benefits that should have been provided.

Expectations?

- Well-meaning plans have made good faith efforts to amend their mental health and substance use disorder benefits to comply with the MHAEA.
- Many plans have made efforts to avoid exclusions of particular diagnoses.
- Plans contract with Employers, and in the end, must offer an agreed-upon benefit.
- Any ambiguities in the law may or may not be addressed in rule...Dept of Labor issued an RFI...Proposed rules will have a comment period.
- *Stay tuned....*

June 14, 2007

The Honorable Edward M. Kennedy
The Honorable Michael B. Enzi
The Honorable Pete V. Domenici
United States Senate
Washington, DC 20510

Dear Chairman Kennedy and Senators Enzi and Domenici:

We write in joint and strong support of prompt Senate action on the manager's amendment to the bipartisan Mental Health Parity Act of 2007, S. 558. We support enactment of your balanced legislation into law this year.

Organizations representing consumers, family members, health professionals, and health care systems and administrators, business associations and insurance organizations negotiated in good faith with you and your staff over an extended period to produce this bill. We believe that it is a strong bill that will advance the interests of the greater mental health community while balancing the interests of employers who voluntarily sponsor benefit coverage. This bill also respects the role of the states in the regulation of insurance.

We urge its prompt adoption by the full Senate and will join you in opposing unacceptable or weakening amendments during the Senate debate and will remain committed to this bipartisan approach as this legislation moves forward. Thank you again for your joint leadership on this important issue.

Sincerely,

National Retail Federation
National Association of Wholesaler-
Distributors
National Association of Health
Underwriters
Society for Human Resource
Management
National Association of Manufacturers
National Federation of Independent
Business
Aetna
U.S. Chamber of Commerce
BlueCross BlueShield Association
CIGNA

American Hospital Association
American Psychiatric Association
American Psychological Association
Association for Behavioral Health and
Wellness
Federation of American Hospitals
National Alliance on Mental Illness
National Association of Psychiatric
Health Systems

IT'S WRONG NOT TO CARE

Americans are a caring people. Our basic moral decency tells us that discrimination in any form is wrong. Discrimination *always* entails depriving people of fundamental rights because they are "different" in some way. It could not be more un-American.

Unfortunately, discrimination is alive and well in Michigan today. Just ask a family affected by mental illness. They are not hard to find. Over a half million Michiganders suffer from some form of serious mental disorder.

Michigan law presently allows discrimination against people with brain disorders by denying them access to health care coverage that would help pay for treatment — treatment that helps them live and work in their community. All they ask for is parity — equal treatment under the law for those who suffer from serious diseases of the brain that now exist for physical ailments.

As Americans, we've come together to fight discrimination against women, minorities, the elderly and people with disabilities. Now, Americans must unite to end discrimination against people suffering from mental illness.

THERE OUGHT TO BE A LAW

In 1991, Rhode Island and Texas became the first states to pass mental health parity legislation. Since then, 40 states have followed suit. Today, Michigan is among the remaining 8 states yet to end mental health discrimination.

Opponents of parity argue that the cost of mental health insurance is too expensive for businesses. This claim is simply wrong. According to the *New England Journal of Medicine* and numerous other recent studies based on actual experience, any insurance cost increases are miniscule. Opponents also fail to recognize the other costs — unnecessary physical health care visits, lost work time and productivity and simple quality of life — that could be avoided with appropriate mental health coverage and treatment.

Since the late 1980's, concerned families, advocacy organizations and elected officials have fought to end mental health and substance use disorder discrimination in Michigan. Legislators have introduced bills, but none has passed because our opponents believe discriminating against individuals with certain illnesses is acceptable.

Michigan's parity advocates have pursued reasonable solutions:

- The proposed law is not a mandate; mental health coverage is not required.
- If coverage is offered as part of an insurance policy then it may not discriminate based on type of illness.
- Co-pays, visit limits and annual and lifetime maximums must be equal for all illnesses under the legislation.

IT'S TIME TO RIGHT A WRONG

Those who believe it is past time to end mental health discrimination fear that Michigan citizens will be the last in the nation to have fair and equal treatment.

The 2008 elections will bring new leaders into office. It is time for all Michigan voters who abhor discrimination to join our campaign to advance parity legislation and support policymakers who are committed to parity. It is time to insist that the Michigan Legislature bring fairness to Michigan's insurance system and justice to a large group of our fellow citizens.

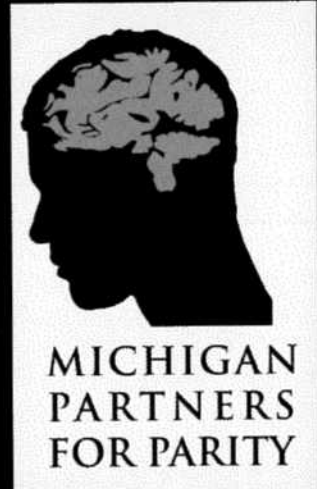
Mental health discrimination in Michigan must end. It is time to right a wrong.

For more information: michiganparity.googlepages.com



END MENTAL HEALTH DISCRIMINATION IN MICHIGAN

- Over one-half million children and adults in Michigan suffer from a serious mental disorder.
- 88% of Michigan citizens believe it is unfair for insurance companies to limit mental health benefits.
- 4 of the 10 leading causes of disability in people older than 5 years of age are mental disorders.
- Federal and state employees in Michigan enjoy mental health insurance benefits on par with other medical coverage.



FIGHTING DISCRIMINATION AMERICAN MILESTONES

1863	The Emancipation Proclamation
1920	19th Amendment (women's suffrage)
1964	Civil Rights Act
1967	Age Discrimination Act
1990	Americans with Disabilities Act
1991 to present	42 states end mental health discrimination

*When will discrimination end for Michiganders
with a mental illness?*

DISCRIMINATION
ISN'T OVER.
WE ALSO DO IT TO
PEOPLE WITH
MENTAL ILLNESS.



*"Of all the forms of inequality, injustice in health care is the most shocking
and inhumane." — Dr. Martin Luther King, Jr.*